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**Cc:** []  
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**From:** CN=Karen Schwinn/OU=R9/O=USEPA/C=US  
**Sent:** Thur 10/25/2012 6:43:19 PM  
**Subject:** Re: I edited the Delta item in weekly, let me know if you're OK with it  
regulations

the title is unnecessarily inflammatory and potentially misleading. Sounds like they issued a permit!

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**From:** Tim Vendlinski/R9/USEPA/US  
**To:** Karen Schwinn/R9/USEPA/US@EPA@EPA, Erin Foresman/R9/USEPA/US@EPA@EPA  
**Date:** 10/25/2012 11:28 AM  
**Subject:** I edited the Delta item in weekly, let me know if you're OK with it

The Corps Fails to Comply with Regulations in Permitting Delta Tunnel: The Sacramento Corps District intends to accept an overall project purpose statement from the California Department of Water Resources (DWR) in the State's CWA 404 permit application for the Delta Conveyance Tunnel Project. The proposed tunnel is the centerpiece of DWR's Bay Delta Conservation Plan (BDCP). EPA disagrees with the Corps' decision as we have concluded that the application does not comply with regulations governing the wetlands program, nor with Guidance from the Department of the Army. To construct the tunnel, DWR must secure a permit from the Corps under the CWA, and authorizations from FWS and NMFS under the federal ESA. The Corps' decision follows months of discussion with DWR and EPA whereby DWR ultimately convinced the Corps to agree with an overall project purpose statement that is defined by DWR's preferred alternative. But per the wetlands regulations and Guidance, the Corps may issue a permit for the preferred alternative only if an alternatives analysis demonstrates that the proposed project is the least environmentally damaging practicable alternative (LEDPA). We will raise our concerns in writing to the Corps about their potential non-compliance with the regulations.

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